

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY**

Call to Order: By **SEN. JOHN HERTEL**, on January 13, 1999 at 9:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)
Sen. Fred Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 19, 1/8/1999;
SB 162, 1/8/1999
Executive Action: None

HEARING ON SB 19

Sponsor: SENATOR KEN MILLER, SD 11, LAUREL

Proponents: Sonny Hanson, Former State Representative, Billings
Peter Blouke, Director, Dept. of Commerce

Opponents: Gene Fenderson, Joint Committee of Unions

Ranny Ankerich, Hartford Steam Boiler Inspection and Insurance Co.

Greg Van Horssen, State Farm Insurance

Chris Hahn, Prof. & Occupational Licensing

Ray Smith, First Class Boiler Operator

Opening Statement by Sponsor:

SENATOR KEN MILLER, SD 11, LAUREL presented **SB 19** and turned the actual presentation over to **Sonny Hanson**, former Representative. I would like to reserve the right to close. Thank you.

Proponents' Testimony:

Sonny Hanson, Billings. He presented the bill and handed in his testimony **EXHIBIT (bus09a01)**. During his testimony, he handed out two exhibits, **EXHIBIT (bus09a02)** and **EXHIBIT (bus09a03)**.

Concerning these two exhibits, the following are his comments: The boilers on the front page of Exhibit 2, those three units will take care of a building of about 50,000 to 70,000 sq. feet. This area is about the size of a grade school, 30,000 sq. feet. What are the sizes of these boilers? Each boiler is 22 inches wide, 32 inches long and 44 inches high. The reason they are small is because there is no water storage in those boilers. They are basically a "pass through". The hot water heater in your house has more potential explosive capabilities than the combination of those three boilers. Look at the last page. A 30 gallon hot water heater has a relief valve and one gas valve; those are the two safety features. Yet on the hot water boilers, it has a gas control valve, a open and close with a high limit and a manual reset valve on the present day codes, a low water cutoff, a pressure reducing valve, and also another relief for internal buildup pressure based on your makeup water. There are five safety features on these boilers and only two on the unit in your house. **Mr. Hanson** then explained Exhibit 3. This information concerns boilers in Montana. There are 1,081 (steam) low-pressure boilers in Montana and 3,440 (hot water) low-pressure boilers. There are 1,695 licensed operators for these boilers. But if you take all the registered boilers in the state of Montana, steam and hot water, there are 4,827 with only 4,067 licensed operators. The original law dealt with steam generators and steam boilers only. In 1955, when hot water boilers were starting to be used, there was no requirement for a licensed boiler operator. That law was added in 1973, 74, or 75. It was put into law that a licensed boiler operator was needed for hot water. So this is relatively new. The sizing information is just to give you an idea of what has happened in the boilers' design. In 1955 our boiler efficiency was from 60 to 70%. The sizing was roughly 90 to 120 BTUs per sq. ft. of floor area. In

1998, boiler efficiency was 80 to 90% and the sizing was down to 35 to 40 BTUs per sq. ft. But the important point is how explosive is that 30 gallon hot water heater in your home? If the gas valve sticks open on a 30 gallon hot water heater with 50 lbs. water pressure, and the relief valve sticks closed, when the temperatures gets to 297 degrees F. and the tank ruptures, there is an explosive equivalent of 1 lb. of nitroglycerin. And that equates to about 2 million foot lbs of force. There will never be anything near that in the present day hot water boiler.

{Tape : 1; Side : A; Approx. Time Counter : 12.7}

Peter Blouke, Director, Dept. of Commerce. I rise, somewhat reluctantly, as a proponent. This bill is difficult for the Dept. On one hand, we have the Building Codes Division which is responsible for the inspection of boilers and on the other hand we have the Professional and Occupational Licensing Division which is responsible for licensing these individuals. I would comment that the Dept. supports the first component of this bill as it relates to the length of inspections--moving it from one year to three years. But we are not taking a position on the licensure issue. I would defer to the judgment of the Committee on that issue. One other thought on the frequency of inspections, even though it is a three-year cycle, if there is something at fault with the boiler during the inspection period there would be a follow-up inspection. One would not wait three more years to insure the fault had been corrected. I have staff from both the Building Codes Div. and the Professional and Occupational Licensing Div. who would be able to respond to any questions that you may have.

{Tape : 1; Side : A; Approx. Time Counter : 14.3}

Opponents' Testimony:

Gene Fenderson, Joint Committee of Unions. Teamsters Union, Operating Engineers Union, Labors Union, Cement Finishers Union, Iron Workers. There are some good and bad issues in this bill. The Fiscal Note basically lays out what is happening here. The loss of revenues to state government is not good. Also, we question the loss of 1,000 licensed boiler operators. I do agree that the low-pressure boilers are less dangerous but we do feel that the present law should be kept for reasons of safety. We should have an upgrade on some of the boilers since they have been functioning for many, many years. The new type of safety valves and cross checks that could be used on those boilers would be much safer.

Ranny Ankerich, Hartford Steam Boiler Inspection and Insurance

Co. We oppose two provisions of the bill, Part 1, 50-74-209 which permits the three year inspection intervals. We would recommend that there be biannual inspections. Three years is too much time in between inspections. Also Part 3, 50-74-209 allows a boiler found to be in violation of safety standards to be operated for up to six months before the violation must be corrected. Depending upon the definition of safety standards, it would depend upon the violation that was found as to whether it should be operated and given six months to be corrected. Mr. Barbato, Manager Jurisdictional Affairs, of Hartford could not be here today and he asked if I would present two papers to the Committee. **EXHIBIT (bus09a04)** is a letter from Mr. Barbato to Mr. William Jellison, Bureau Chief, Inspection Services Bureau and **EXHIBIT (bus09a05)**, a recommendation on wording for **SB 19**. Thank you.

Greg Van Horssen, State Farm Insurance Co. We do not inspect boilers nor operate boilers. State Farm has asked me to enter a concern--a philosophical opposition to extending the inspection time-frame from one year to three years. We would ask the Committee to consider this very carefully. There may be some safety concerns in lengthening that inspection interval. Thank you.

Chris Hahn, Citizen. My position is with the Professional and Occupational Licensing and I am the boiler, blaster and printing operator program manager. Today, I am here as a licensed boiler operator on vacation time and represent myself.

EXHIBIT (bus09a06) is the written testimony of **Mr. Hahn** and nine pages of graphs and charts supporting his testimony.

Ray Smith, First Class Boiler Operator. I am here on my own time today to testify in opposition to **SB 19**. I am one of the boiler inspectors employed by the Building Codes Division. I have statistics in my daily inspection routine that support my opposition to this bill. It has been our general practice that we grandfather existing boiler installations under the code that they were installed in rather than forcing a boiler owner/user to upgrade his control or his boiler trim to a new code every three years. This seems cost prohibitive. It is something boiler owner/users have expressed to me that how come everything you come here to inspect my boiler you find something wrong. It is not because the code has changed; it is because of lack of maintenance and lack of knowledge of operating the boiler. I find three more code violations per hot water boilers than I do on steam boilers and high pressure boilers in this state. This classification of boiler is dangerous due to the large volume of water that could explode. All boiler accidents are a result of

multiple control failures. It is not just one control that fails and these failures are directly related to lack of maintenance and knowledge on the part of the owner/user. It is my belief that if we extend the inspection intervals on these boilers and all boilers, and remove the license requirement for low pressure boiler operators, owners and users of these boilers will turn it into the same thing as we look at in our hot water heaters. It will be a device that is there. It is needed to maintain heat in their buildings and it is forgotten about as long as one can turn the thermostat up and stay warm. I believe this is setting up a potential hazard here in the state. I strongly oppose this bill.

{Tape : 1; Side : A; Approx. Time Counter : 42.8}

Questions from Committee Members and Responses:

SENATOR VICKI COCCHIARELLA asked what would happen if the inspection interval were lengthened and reduce the requirements for boiler inspectors in relation to insurance policies for schools and public buildings? **Greg Van Horssen** answered that he couldn't say that insurance premiums associated with that would go up or down. He could only say that insurance costs to the consumer, in this case the schools, are based on loss experience. To the extent that an extended inspection schedule or to the extent that a licensure requirement is removed, they would increase the costs.

SENATOR DALE BERRY asked if there were any statistics on injuries. **Chris Hahn** replied that he did not have any. **SEN. BERRY** asked that if the number of licensed operators were reduced, would that hurt Montana in the future with too few operators left to take care of the load of inspections. **Mr. Hahn** replied that it would hurt Montana especially in the more remote places out in Eastern Montana. It is already hard out in that area for some to get licensed operators.

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SEN. BERRY asked **Mr. Hanson** to respond to the last question. **Mr. Hanson** said that what was mentioned here was that there was over 6,000 boilers in the State of Montana and if you consider there are only 4,000 licensed operators today, we already have a shortage. And yes, the eastern part of the state does have a problem with a shortage of boiler operators.

SENATOR MIKE SPRAGUE asked **Mr. Van Horssen** is he was familiar with insurance rates relative to states that surround Montana. **Mr. Van Horssen** replied that he was not certain if his company

insures schools in particular. Perhaps someone in the company could be more responsive to that question.

SEN. SPRAGUE talked about the heaters that were in his three self-service car washes. Paloma Heaters were used in these business and they produced hot water on demand which is similar to boilers. **Mr. Hanson** replied that they were similar to boilers because that is why the boilers are not all that large but will put out 1 million to 1 1/2 million BTU that would be correct. So in actuality, many things are not being inspected as they should be.

{Tape : 1; Side : B; Approx. Time Counter : 6.2}

SEN. SPRAGUE asked **Mr. Hahn** if he inspects those kinds of boilers that he had just been talking about. And if not, why not. The last change in the law was in 1995 and why didn't we prevent that kind of thing that happened in that school under current law.

Mr. Hahn said that he deals with the licensed operator and you are dealing with code issues and should address the first part of your question to Mr. Jellison. He does not perform boiler inspections but there are some here that do. They inspect about 600 boilers each of the low pressure boilers. They would be able to answer the questions. There was not further discussion.

SENATOR GLENN ROUSH asked **Ray Smith** if he had said he was a boiler operator and an inspector. The answer was yes. And since there are about 3,903 hot water boilers of low pressure status and there are only about 800 of those boilers have been installed after about 1994, that leaves a significant number of old boilers around the state. **SEN. ROUSH** then asked if **Mr. Smith** inspects many of these kinds of boilers. The answer was yes. **Mr. Ray** said that is one of the issues that **Mr. Hahn** was trying to bring out. The majority of the low pressure boiler installations in this state are pre-existing to the adoption of the latest codes that would require the most safety devices and multiple safety devices on these boilers. The boiler installations primarily are older and they grandfathered the older installations into the system under the previous code conditions and the owner/user is not forced to bring their boiler up to the latest code every time it changes. This is a cost that is prohibitive to the owner/user. Another code issue that comes into play here is that the boiler was built to that code at the time of its manufacture and its installation and you would make this old boiler fit a new boiler code. The technology isn't there.

SEN. ROUSH asked that in the inspection of the new boilers that are installed, does he run into very many incidences where there is a technology breakdown of all the new equipment for automated

operation. The answer was yes. **Mr. Ray** stated that it may not be daily but definitely weekly he would find a newer boiler installation that had been installed after February 1996 and one or more of the safety devices has failed. The person involved in operating the boiler sometimes is not aware of this and these things are found through frequent inspections. He did not have figures to support the age of the boilers. Installing contractors who are suppose to be aware of the latest code changes do not install the required code safety devices. They are then forced to go in and force the owner/user to upgrade the controls to what is suppose to be there.

SEN. ROUSH felt that a good number of these boilers that are in this bill are in public buildings. **Mr. Ray** answered yes.

{Tape : 1; Side : B; Approx. Time Counter : 12.1}

SENATOR BEA MCCARTHY asked about #1 of the fiscal note saying that it is estimated that there are 1842 licensed low pressure boiler engineers. If there is a low pressure boiler in a school, must an individual in that building be licensed to operate that boiler. **Mr. Hanson** replied yes. **SEN. MCCARTHY** asked if Wal-Mart, K-Mart and the mall all needed a licensed operator. **Mr. Hanson** replied yes and that some malls have a central heating system, but malls are going to roof-top gas-fired units. The bottom line was that each boiler needs a licensed boiler operator.

SEN. BERRY made a statement that fines and jail sentences were not really an option and should be looked at again. **SEN. MILLER** said the enforcement tool was strengthened which would strengthen safety.

Closing by Sponsor:

SEN. MILLER thanked the Committee for a good hearing and commented it seemed nobody disagreed that much; however, neither he nor **Mr. Hanson** took the bill lightly. We are all concerned with safety and how it was achieved. **Mr. Hanson** is trying to increase the safety because under the current mechanism there is neither good enforcement nor the ability to force upgrades to code. He is also asking for a longer period of time between the purchase of new equipment and its inspection. An insurance company could say it wanted its inspector to be there annually or a school board could say it wanted the boilers inspected annually or twice a year. Operators could also say they wanted a licensed boiler operator, i.e. to say none of this would happen was not real accurate. **SEN. MILLER** said he had seen some boilers which were quite old and those were the ones from where the statistics

were coming. He commended **Mr. Hanson** for bringing the bill and stressing the safety issue. People needed to use common sense in achieving the safety, yet keep the reasonable parameters. He hoped the Committee would look favorably on the bill.

{Tape : 1; Side : B; Approx. Time Counter : 17.5}

HEARING ON SB 162

Sponsor: SEN. WILLIAM CRISMORE, SD 41, Libby

Proponents: George Bennett, Montana Bankers Association
Keith Colbo, Montana Independent Bankers
John Cadby, Montana Bankers Association
Frank Cote, Montana Department of Insurance
Roger McGlenn, Independent Insurance Agents
Association of Montana
Al Pontrelli, Montana Association of Life
Underwriters
Don Hutchinson, Banking & Financial Division
Stuart Doggett, Montana Land Title Association

Opponents: None

Opening Statement by Sponsor:

SEN. WILLIAM CRISMORE, SD 41, Libby, read his written testimony.
EXHIBIT (bus09a07)

Proponents:

George Bennett, Montana Bankers Association, said there was a dual banking in the United States -- State-chartered banks and national banks. **SB 162** extends to state banks powers that national banks have or might potentially have, i.e. opens up the Montana Bank Act, amends six (6) sections and adds a seventh section which will authorize banks to engage in insurance activity. That's the only extension of power for banks. Also, it will allow banks to operate any business they're allowed to operate now or later through subsidiaries or affiliates and defines those two (2) terms. It also allows an extension of investment powers to state banks, something national banks already have. The seventh section allows banks state charters to engage in insurance activities. We just learned this morning the title insurance industry has a concern about this because they don't want banks getting into the title insurance business. The

insurance code, Chapter 25, contains the Montana Title Insurance Act. Mr. Frank Cote of the Insurance Commissioners, State Auditors Office, is here and he has some concerns about the chapters in Title 33 which will apply to banks. We will work with Mr. Cote and Mr. William Gowen from the title insurance people to ensure that banks won't get into the title insurance business. We will offer those amendments and get them to Bart Campbell. The bill is self-explanatory and does the things as outlined by **SEN. CRISMORE**.

Keith Colbo, Montana Independent Bankers (MIB), said he concurred with the bill sponsor's statements and the amendments as offered by **Mr. Bennett**. We would be pleased to work with the staff to get those amendments on **SB 162**. The bill states what we as an industry need to do in order to be competitive in the changing marketplace, a marketplace we can't always control -- many of the changes come down from the federal level. We urge the passage of **SB 162**.

John Cadby, Montana Bankers Association, said he wanted to clear up something in Section 1 -- retailers had asked if it meant they would start engaging in business activities and affiliates and subsidiaries such as starting a funeral parlor, grocery store or casino and the answer was "no." Existing language said "whatever is authorized by law" and he wanted to reemphasize that meant the selling of insurance. Montana is one of only two (2) states left in the nation where it isn't clear that banks can sell insurance. However, there is some confusion because in Montana there are about half a dozen banks who have insurance agencies, which is lawful through a holding company structure, i.e. family owns the agency or space could be rented to a local independent insurance agent. But **SB 162** makes the language so much clearer. Nothing is really changing in the marketplace -- banks won't be engaged in all kinds of commercial activities.

{Tape : 1; Side : B; Approx. Time Counter : 27.1}

Frank Cote, Deputy Insurance Commissioner for Montana, said he didn't have strong feelings one way or the other for **SB 162**; however, he did have very strong feelings for the amendment **EXHIBIT (bus09a08)**. He explained the amendment and said he wished to strike "chapters 1 & 2" because anyone in the insurance business should be required to comply with all insurance laws that apply to them. The intention of the drafters of the bill when originally put together was they would be subject to all of Title 33.

Roger McGlenn, Independent Insurance Agents Association of Montana (IIAM), said they rose in support of **SB 162** with the

amendment as just proposed by **Mr. Frank Cote**; however, without the amendment they would strongly oppose the bill because it went to the fundamental equal playing field talked about by **Mr.**

Bennett. He strongly urged the Committee to support the amendment brought by **Mr. Cote** and reiterated with it, they would support **SB 162**.

Al Pontrelli, Montana Association of Life Underwriters, said they had no objection to the banks being in the insurance business; however, they would oppose the bill if the amendment wasn't passed. The amendment would cause all of us to be on a level playing field.

Don Hutchinson, Banking & Financial Division, Banking Commissioner, said they had worked with both associations in drafting the bill and would speak as a proponent.

Stuart Doggett, Montana Land Title Association, said he originally came to oppose the bill; however, now that the banking association has generously agreed to work with us and we like the sound of their amendments but we need to see them first, of course. We do want to get title insurance out of there and if that is done, we will support **SB 162**.

{Tape : 1; Side : B; Approx. Time Counter : 32.5}

Questions from Committee Members and Responses:

SEN. VICKI COCCHIARELLA asked for explanation of "public welfare" in Section 4, Part 4. **Mr. Bennett** said that particular section was requested by a retired Billings banker because presently, under very tight regulations imposed by the Comptroller of the Currency, national banks can enter into investments which are intended to help moderate or low income people in housing, jobs, etc. This section grants to the Department, banks and financial institutions the authority, within controls, to invest for those purposes -- state banks would be able to do what national banks can now do.

SEN. COCCHIARELLA asked for an example. **Mr. Hutchinson** said what it was addressing was community development organizations who might want to take a partnership or financial interest in public development, such as low income housing, and presently cannot do it. This act would allow that.

SEN. COCCHIARELLA asked for an explanation of Part 5 which said ".....eleventh power provided for in 12 U.S.C. 24....." **Mr. Hutchinson** said it was a federal statute which refers to giving

his Department equality with matching that provision of that statute.

SEN. BEA MCCARTHY asked if any of those low-income would be something similar to "Habitat for Humanity", etc. **Mr. Hutchinson** said this provision was usually put together with a community development corporation and he would not say it ran to the specific part she mentioned. But if the issue she talked about was put together by a community development corporation, it would apply.

SEN. HERTEL asked **Mr. Bennett** if they would be able to sell all types of insurance, hail, car, life, homeowners, etc., and was told an amendment would be offered which would take out title insurance. He couldn't say what other types of insurances banks would want to sell. This is simply to allow state banks to do what national banks may be able to do and also what banks are doing in other states. Banks are not getting into hail insurance and things like that.

SEN. HERTEL wondered if credit unions were interested. **Mr. Bennett** said they had talked with them and he wasn't aware of any particular concerns. **Jeannie Bauman, Montana Credit Union Network**, said she was here because Bob Piper couldn't be present. She said he didn't mention they were opposing the bill; if he had, she would have testified today.

SEN. COCCHIARELLA referred to Page 8, Line 2, and wondered how far it went. She asked if she as a bank customer needed records, would she be charged. **Mr. Cadby** said it came about because of a big case of fraud and embezzlement in Bozeman and a savings bank was asked to reproduce five (5) years' worth of records. The bank spent many hours and incurred costs; yet, they didn't consider it their obligation to reproduce all the records for the county to prosecute this person. As to individuals, it didn't apply, i.e. reproduce a check -- that wasn't the intent. **Mr. Bennett** said what it provided was when bank records were being provided at the request of a subpoena or other legal procedure. If a customer asks for bank records, it didn't reply.

{Tape : 2; Side : A; Approx. Time Counter : 0}

SEN. MIKE SPRAGUE asked if he were getting a divorce, and the attorney asked for the records to use in the divorce court, and if they had a joint account, would that be considered third party. **Mr. Bennett** said it wouldn't. **Bart Campbell** said "third party" to him was if it was a joint account, he wouldn't be a "third party." **SEN. SPRAGUE** commented it would have to come from

an outside source and was affirmed. There would have to be a legal process to get the records.

Closing by Sponsor: **SEN. CRISMORE** said his banker would be happy with him if the Committee passed the bill. He thanked the Committee for the good hearing.

ADJOURNMENT

Adjournment: 10:40 A.M.

SEN. JOHN HERTEL, Chairman

MARY GAY WELLS, Secretary

JH/MGW

EXHIBIT (bus09aad)